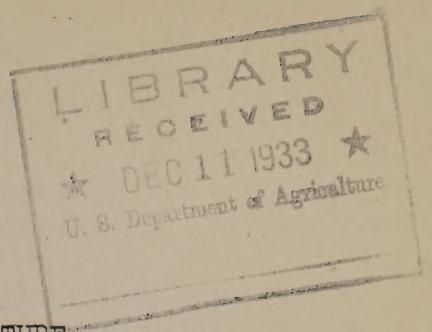


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Birmingham, Ala.



UNITED STATES DEPARTMENT OF AGRICULTURE

AGRICULTURAL ADJUSTMENT ADMINISTRATION

PROPOSED

MARKETING AGREEMENT

FOR

FLUID MILK - BIRMINGHAM ALABAMA AREA

The Marketing Agreement for Fluid Milk - Birmingham, Alabama Area in its present form merely reflects the proposal of the Alabama Dairy League, Inc., and none of the provisions contained therein are to be regarded as having received the approval of the Agricultural Adjustment Administration as applying to this area.

PROPOSED MARKETING AGREEMENT FOR MILK

BIRMINGHAM, ALABAMA.

PART I

The parties to this Agreement are the contracting distributors, the contracting producers, and the Secretary of Agriculture of the United States.

WHEREAS, it is the declared policy of Congress, as set forth in Section 2 of the Agricultural Adjustment Act, approved May 12, 1933, as amended: -

- (a) To establish and maintain such balance between the production and consumption of agricultural commodities and such marketing conditions therefor, as will reestablish prices to farmers at a level that will give agricultural commodities a purchasing power with respect to articles that farmers buy, equivalent to the purchasing power of agricultural commodities in the base period, the base period in the case of all agricultural commodities except tobacco being the prewar period, August 1909 - July 1914; and -
- (b) To approach such equality of purchasing power by gradual correction of the present inequalities therein at as rapid a rate as deemed feasible in view of the current consumptive demand in domestic and foreign markets; and -
- (c) To protect the consumers' interest by readjusting farm production at such level as will not increase the percentage of the consumers' retail expenditures for agricultural commodities, or products derived therefrom, which is returned to the farmer, above the percentage which was returned to the farmer in the prewar period, August 1909 - July 1914; and

WHEREAS, pursuant to the Agricultural Adjustment Act, the parties hereto, for the purpose of correcting conditions now obtaining in the production of milk in the Birmingham, Alabama production area, and the distribution thereof, and to effectuate the declared policy of the Act, desire to enter into a marketing agreement under the provisions of Section 8 (2) of the Act;

NOW THEREFORE, the parties hereto agree as follows:

PART II

As used in this Agreement, the following words and phrases are defined as follows:

1. "Secretary" means the Secretary of Agriculture of the United States or his duly authorized representative.

2. "Act" means the Agricultural Adjustment Act, approved May 12, 1933, as amended.

3. "Person" means individual, partnership, corporation, and association or any other business unit.

4. "Fluid Milk" means milk, cream or any other of the articles listed in Exhibit "C" which are sold for consumption in the hereinafter defined sales area.

5. "Producer" means any person who produces, in the production area, milk sold for consumption as fluid milk in the sales area.

6. "Contracting Producers" means Alabama Dairy League, Inc., Alabama Milk Producers Association, Inc., and such other producers as may become parties signatory to this Agreement according to the terms thereof.

7. "Distributor" means any person who distributes fluid milk for consumption in the sales area.

8. "Contracting Distributors" means Alabama Milk Producers Association, Inc., which is also one of the above named contracting Producers, Southern Dairies, Inc.; Foremost Dairies, Inc., Pure Milk Co., Inc., Harwood Dairy Products, Inc., White Dairies, Inc., and such other distributors as may become parties signatory to this Agreement according to the terms thereof.

9. "Sales Area" means the territory included within the following boundaries: That territory embraced and confined within the fixed boundaries of the county of Jefferson in the State of Alabama, which includes the City of Birmingham, Alabama.

10. "Production Area" means the territory within the following boundaries of the following named counties in Alabama and Mississippi:

(a) State of Alabama, counties of,

Montgomery	Sumpter	Perry
Lowndes	Greene	Blount
Dallas	Tuscaloosa	Walker
Autauga	Wilcox	Shelby
Hale	Butler	Talladega
Marengo	Jefferson	Clarke
		Pickens

(b) State of Mississippi, counties of,

Monroe	Noxubee
Clay	Oktibbeha
Lowndes	

11. "Subsidiary" means any person, of or over which a contracting distributor or contracting producer has, either directly or indirectly, actual or legal control, whether by stock ownership or in any other manner.

12. "Affiliate" means any person which has, either directly or indirectly, actual or legal control of or over a contracting distributor or contracting producer whether by stock ownership or in any other manner.

13. "Books and Records" means, books, records, accounts, contracts, memoranda, documents, papers and correspondence, or other ~~written~~ data pertaining to the business of the person in question.

14. "Milk Board" means the Milk Industry Board as provided in Part III hereof.

PART III

1. "Members" as used in Part III means the members of the Milk Industry Board.

2. The contracting producers and contracting distributors shall cause to be organized within five days after the execution of this Agreement by the Secretary, a committee of five to be known as the Milk Industry Board. Two members of the Board shall be elected by the contracting producers; two by the contracting distributors; and the fifth member, to represent the consumers, shall be elected by the other four. Such fifth member shall be a resident of the sales area and shall have no connection financially or otherwise with the distribution of milk or products derived therefrom. The fifth member shall be designated by the Secretary in the event such member is not elected within five days of the effective date of this Agreement by the four members as above provided.

3. Members representing the contracting producers and contracting distributors, respectively, shall be elected by the respective parties in a manner to be determined by themselves, provided that a vote of producers representing not less than 70% of the total volume of milk produced within the Production Area for distribution as fluid milk during the calendar month next preceding such election which percentage of production shall include 51% of the producers, and a vote of distributors representing not less than 70% of the milk sold as fluid milk within the Sales Area which percentage of distribution shall include 51% of the distributors by number, respectively, shall be necessary for such election. Upon election the names of all the members shall be certified by the party or parties conducting such elections to the Secretary for his approval. The Secretary may require that such certification include a statement of the manner and vote by which the respective members were elected and the percentage of the total production or sales of fluid milk within the area represented by such vote. Members whose names have been certified to the Secretary and approved by him shall enter upon the discharge of their duties. If the Secretary shall not approve a member, there shall be a vacancy on the Milk Board. Any member may be removed, with or without cause, by vote of the group which elected him, either producers or distributors, as

the case may be, representing a volume of milk equal to at least three-fourths of the volume and number by which he was originally elected. Any vacancies on the Milk Board shall be filled in the same manner and by the same parties as provided for the original election.

4. The Milk Board shall select from among its members, a chairman and vice-chairman, and also a secretary-treasurer who may or may not be a member. The Milk Board shall employ such agents, assistants and clerks as may be necessary to perform its duties. All officers and employees of the Milk Board who handle funds of the Milk Board or who sign or countersign checks upon such funds shall severally give bonds in such amounts and with such sureties as shall be determined by the Milk Board. The cost of such bonds shall be paid by the Milk Board.

5. The members shall serve without compensation, but shall be entitled to reimbursement for the expenses incurred in the performance of their duties.

6. The Milk Board shall be financed as provided in Exhibit "B", which is attached hereto and made a part hereof.

7. Subject to such regulations as the Secretary may prescribe, it shall be the duty of the Milk Board:

- (a) to receive and investigate complaints of violations of the terms or conditions of this Agreement and of any license issued in respect to this Agreement and to issue warnings with respect thereto;
- (b) to adjust disputes arising under this Agreement between contracting producers and/or contracting distributors;
- (c) to report its findings, with recommendations, to the Secretary for proceedings under the Act or otherwise which he may deem advisable;
- (d) to cooperate in the establishment of, to establish, and to record bases for all producers, and to cancel bases of particular producers, in accordance with the provisions of Exhibit "B";
- (e) to receive and act upon, in accordance with the provisions of Exhibit "B", the applications of new producers as determined in Exhibit "B";
- (f) to receive and collect from distributors reports of sales of the various classes of milk and any other information required by the Milk Board in the performance of its duties;
- (g) to review in accordance with the provisions of Exhibit "B" the operations of any sales pool, equalization fund, and marketing plan provided for in this Agreement;
- (h) to account for all funds collected pursuant to this Agreement.

8. The Milk Board shall have full power and authority to join with any further board or supervisory body approved by the Secretary to aid in the functioning of this agreement and to cooperate in the formulating of a national or blanket agreement.

9. It is further agreed and provided that, in no event, shall the several members of the Milk Board be civilly liable for any action of the said Milk Board provided that they have acted in good faith.

PART IV

1. The schedule governing the prices at which, and the terms and conditions under which, milk shall be sold by the contracting producers and purchased by the contracting distributors for distribution as fluid milk, shall be that set forth in Exhibit "A", which is attached hereto and made a part hereof. The provisions of such schedule may be changed from time to time by agreement between 70% of the contracting producers, measured by total volume of milk produced within the Production Area, for distribution as fluid milk during the calendar month next preceding the date of any such agreement, which volume percentage of production shall include 51% of the producers on the one hand, and 70% of the contracting distributors measured by total volume of milk sold as fluid milk within the sales area, which percentage of distribution shall include 51% of the distributors, on the other hand, provided, however, that such changes shall become effective only upon written approval of the Secretary. Payments to the Milk Board made pursuant to section four (4) of this part and section two (2) of Article I, Exhibit "B", which is attached hereto and made a part of this Agreement, and like payments to Alabama Dairy League, Inc. made pursuant to membership agreements, shall, respectively, be deemed part of the price paid to producers, except for such part thereof as is to be paid by contracting distributors.

2. The plan governing the marketing of milk within the Production Area and the sales area shall be that set forth in Exhibit "B", which is attached hereto and made a part of this Agreement. Such plan may be modified by agreement between 60% of the contracting producers, measured by total volume of milk produced within the production area for distribution as fluid milk during the calendar month next preceding the date of any such agreement, which volume of percentage of production shall include 51% of the producers, on the one hand and 60% of the contracting distributors, measured by total volume of milk sold as fluid milk within the sales area, which volume of percentage of distribution shall include 51% of the distributors, on the other hand, provided, however, that such changes shall become effective only upon the written approval of the Secretary.

3. The schedule governing the prices at which and the terms and conditions under which fluid milk shall be distributed and sold by the contracting distributors in the Birmingham Sales Area, shall be that set forth in Exhibit "C", which is attached hereto and made a part of this Agreement. Such schedule may be changed from time to time by agreement between 70% of the contracting producers, measured by total milk produced within the Production Area, for distribution as fluid milk during the calendar month next preceding the date of

any such agreement, which percentage of production shall include 51% of the contracting producers, on the one hand, and 70% of the contracting distributors measured by total volume of milk sold as fluid milk within the Sales Area, which percentage of distribution shall include 51% of the contracting distributors, on the other hand, provided however that such changes shall become effective only upon the written approval of the Secretary.

4. The contracting distributors agree that they will not purchase milk from any producer not a member of the Alabama Dairy League, Inc., unless such producer authorizes the purchasing contracting distributor to pay over to the Milk Board the same amount per hundred pounds of milk purchased which members of the Alabama Dairy League, Inc. are then authorizing the contracting distributors to pay over to the Alabama Dairy League, Inc. on behalf of its members, and such purchasing contracting distributors shall simultaneously with making payment to the producer for milk purchased, make payment as aforesaid to the said Milk Board. The sum so paid shall be kept as a separate fund by the Milk Board and expended by said Milk Board in securing for non-members of the Alabama Dairy League, Inc., services and benefits generally similar to those which are secured by the members of the Alabama Dairy League, Inc. by virtue of their like payments to Alabama Dairy League, Inc. The Milk Board may employ the Alabama Dairy League, Inc., as its representative for rendering services and acquiring benefits for the non-members of the Alabama Dairy League, Inc., similar to those rendered and acquired by members of the Alabama Dairy League, Inc., by virtue of their membership, whenever the Alabama Dairy League, Inc., is, in the judgment of the Milk Board, in a position to render such services and confer such benefits. Such Milk Board shall keep separate books and records in form satisfactory to the Secretary pertaining to such funds, which said books and records of the Milk Board shall be subject to the examination of the Secretary during the usual hours of business, and that the Milk Board shall from time to time furnish the Secretary such information as the Secretary may require.

5. All contracting producers, not members of Alabama Dairy League, Inc., shall be permitted to become members of the Alabama Dairy League, Inc., on an equal basis with existing members similarly circumstanced.

6. The contracting producers and the contracting distributors shall severally maintain systems of accounting which shall accurately reflect the true accounts and conditions of their respective businesses, which shall include any subsidiary or affiliate. Their respective books and records (including the books and records of such subsidiaries and affiliates) shall, during the usual hours of business, be subject to the examination of the Secretary to assist him in the furtherance of his duties with respect to this Agreement, including verification by the Secretary of the information furnished on forms hereinafter referred to. The contracting producers and contracting distributors shall severally, from time to time, furnish information to the Secretary on and in accordance with form to be determined by him, each of which reports shall be verified under oath. The Secretary, in his discretion, may permit the omission of any such subsidiary or affiliate from any such reports. In the event that the Alabama Dairy League, Inc., and/or the Milk Board and the Secretary shall have occasion to collect identical information from the same parties, the Alabama Dairy League, Inc., or the Milk Board, as the case may be, shall use forms acceptable to the Secretary and arrangements shall be made for the

triplicate reports to be submitted to the Secretary and the Alabama Dairy League, Inc., and the Milk Board. All information (unless it would have been otherwise legally obtainable by the Secretary) obtained by or furnished to the Secretary, pursuant to this paragraph, if designated in writing as such when so obtained or furnished, shall remain the confidential information of the Secretary, and shall not be disclosed by him except upon lawful demand by the President, by either House of the Congress, or any committee thereof, or by any court of competent jurisdiction, or when offered in evidence in any hearing authorized by the Act, or otherwise in the suspension or revocation as to one or more persons of any license issued by the Secretary, whether or not such information was obtained from or furnished by the person or persons with respect to whose license the hearing was held. The Secretary, however, may combine and publish the information obtained from or furnished by the contracting parties in the form of general statistical studies or data. The Secretary may make and issue such regulations and prescribe such penalties in accordance with the provisions of Sub-section (c), Section Ten (10) of the Act, as he may deem advisable in the event of any violation of the confidence or trust as imposed herein.

7. All fluid milk marketed and distributed in accordance with the terms of this Agreement shall be produced, received, transported, processed, bottled, and distributed in accordance with the provisions of the health laws, ordinances and regulations of the Federal, State, municipal, or other political sub-divisions within which such milk is marketed and distributed. All such ordinances and regulations for the purposes herein stated shall be deemed a part hereof.

8. The schedule of fair practices set forth in Exhibit "D," which is attached hereto, and made a part of this Agreement, shall be the uniform schedule of fair practices for the Sales Area. The provisions of such schedule may be changed from time to time by agreement between 70% of the contracting distributors measured by total volume of milk sold as fluid milk within the Sales Area, during the calendar month next preceding the date of such agreement, which percentage of distribution shall include 51% of the distributors by number, provided, however, that such changes shall only become effective upon the written approval of the Secretary.

9. The contracting distributors hereby apply for and consent to licensing by the Secretary, subject to the applicable general regulations, Agricultural Adjustment Administration, prescribed by the Secretary and approved by the President, and not otherwise.

10. This Agreement shall become effective at such time as the Secretary may declare above his signature attached hereto, and this Agreement shall continue in force until terminated in one of the following ways:

(a) The Secretary may at any time terminate this Agreement as to all parties thereto by giving at least one day's notice by means of a press release or in any other manner which the Secretary may determine.

(b) The Secretary may at any time terminate this Agreement as to any party signatory thereto by giving at least one day's notice,

by depositing the same in the mail and addressed to such party at his last known address.

(c) The Secretary shall terminate this Agreement upon the request of 70% of the contracting producers, which percentage of producers shall include 60% of the production of the Production Area for distribution as fluid milk during the calendar month next preceding each election, or 75% of the contracting distributors, which percentage of distributors shall include 75% of the fluid milk sales of the Sales Area for distribution as fluid milk during the calendar month next preceding each election, by giving notice in the same manner as provided in subdivision (a) above.

(d) This Agreement shall in any event terminate whenever the provisions of the Act authorizing it cease to be in effect.

11. The benefits, privileges and immunities conferred by virtue of this Agreement shall cease upon its termination, except with respect to acts done prior thereto; and the benefits, privileges and immunities conferred by this Agreement upon any party signatory hereto shall cease upon its termination as to such party, except with respect to acts done prior thereto.

12. This Agreement may be executed in multiple counterparts, which, when signed by the Secretary, shall constitute, when taken together, one and the same instrument as if all such signatures were contained in one original.

13. After this Agreement first takes effect, any producer of fluid milk or any distributor of fluid milk, may become a party to this Agreement if a counterpart thereof is executed by him and the Secretary. This Agreement shall take effect as to such new contracting party at such time as the Secretary may declare above his signature attached to such counterpart, and the benefits, privileges and immunities conferred by this Agreement shall then be effective as to such new contracting party.

14. If any provision of this Agreement is declared invalid, or the applicability thereof to any person, circumstance or thing is held invalid, the validity of the remainder of this Agreement and/or the applicability of any provision to any other person, circumstance or thing shall not be affected thereby.

15. Nothing contained in this Agreement shall be construed in derogation or modification of the rights of the Secretary to exercise any powers granted him by the Act or otherwise, and, in accordance with such powers, to act in the premises whenever he shall deem it advisable.

16. The Secretary may by a designation in writing, name any person, including any officer or employee of the government, to act as his representative in connection with any of the provisions contained in this Agreement to be performed by the Secretary.

17. This Agreement confers no exemption from the anti-trust laws and

does not make lawful any acts otherwise unlawful, excepting as provided in the Act to the extent necessary to accomplish the purposes of this Agreement.

IN WITNESS WHEREOF the contracting producers and the contracting distributors, acting under the provisions of the Agricultural Adjustment Act for the purposes and subject to the limitations herein contained and not otherwise, have hereunto set their respective hands and seals.

WHEREAS, it is provided by Section 8 of the Act as follows:

"In order to effectuate the declared policy, the Secretary of Agriculture shall have power to enter into marketing agreements with processors, associations of producers, and others engaged in the handling, in the current of interstate or foreign commerce of any agricultural commodity or product thereof, after due notice and opportunity for hearing to interested parties. The making of any such agreement shall not be held to be in violation of any of the anti-trust laws of the United States, and any such agreement shall be deemed to be lawful: Provided, That no such agreement shall remain in force after the termination of this Act."

And -

WHEREAS, due notice and opportunity for hearing to interested parties has been given pursuant to the provisions of the Act, and the regulations issued thereunder; and

WHEREAS, the Secretary finds (1) that the contracting producers and the contracting distributors are engaged in the handling of fluid milk in the current of interstate commerce; and (2) that the conditions existing in the marketing and distribution of fluid milk in intrastate commerce burden the marketing and distribution of fluid milk in interstate commerce; and (3) that the marketing and distribution of fluid milk in intrastate commerce is inextricably intermingled with its marketing and distribution in interstate commerce; and

WHEREAS, it appears, after due consideration, that this Agreement will tend to effectuate the policy of Congress declared in Section 2 of the Act, as hereinbefore in this Agreement set forth;

NOW THEREFORE, I, Henry A. Wallace, Secretary of Agriculture, acting under the provisions of the Agricultural Adjustment Act, for the purpose and within the limitations therein contained, and not otherwise, do hereby execute this Agreement under my hand and official seal of the Department of Agriculture, in the City of Washington, District of Columbia, on this _____ day of _____, and pursuant to the provisions hereof declare this Agreement to be effective on and after _____ Eastern Standard Time, _____.

Secretary of Agriculture.

EXHIBIT "A"

CLASSIFICATION OF MILK AND PRODUCER PRICES

1. Prices paid to producers shall be determined with reference to the rules for control of basic production and method of payment as set forth in Exhibit "B", attached hereto.

2. Classes of Milk.

All milk purchased and/or sold under this Agreement shall be divided into the following classes:

(a) Class I Milk.

Class I milk shall include all Special and Grade A milk used or otherwise disposed of as follows:

All milk sold in bulk and in bottles,
All cream buttermilk sold in bottles,
All coffee cream sold in bottles,
All whipping cream sold in bottles,
All special cream sold in bottles,
All chocolate milk,

and shall include the difference between all milk delivered to any distributor and the total reported sales of such distributor in the several classes hereinbefore or hereinafter mentioned.

(b) Class II Milk.

Class II milk shall include all Special and Grade A milk used, or otherwise disposed of as follows:

All Bulgarian buttermilk sold in bottles,
All plain buttermilk,
All milk which is not already in Class I from which the skim milk is utilized for making cottage cheese,
All cream sold in bulk,
All milk or cream used for ice cream mix, and
All cream stored for ice cream.

(c) Class III Milk.

Class III milk shall include all Special and Grade A milk used, or otherwise disposed of as follows:

All milk used for making butter and from which the skim milk is not utilized for some product in Class I and/or Class II,
All milk used for hard cheese,
All milk used for condensed or evaporated milk, and
All milk purchased from producers who distribute fluid milk.

3. Payment to producers shall be computed on a hundredweight basis.

(a) All prices of milk stated are subject to the price differential on butterfat content as hereinafter provided.

(b) Class I Milk - Special Milk and Grade A - \$2.90 per cwt.
f.o.b. distributors' platform.

(c) Class II - Special Milk and Grade A - \$2.30 per cwt.
f.o.b. distributors' platform.

(d) Class III - Special Milk and Grade A - shall be the butterfat test times the average price in the Chicago market for the period (or month) during which the milk is sold, of 92 score butter sold at wholesale as reported by the United States Department of Agriculture, and to the resulting figure 20¢ per cwt. shall be added.

4. Butterfat premiums and penalties shall be based on 4 percent of butterfat.

A differential of 3 cents shall be paid for each 1/10 of 1 percent butterfat content below or above 4 percent butterfat.

5. All butterfat, in excess of the percent of butterfat in the natural milk flow of the herd, in any class, shall be paid for at Class III price.

6. All milk delivered in any period (or month) shall be paid for not later than fifteen days following the close of the period (or month).

7. No contracting distributor shall purchase any milk or cream from a producer who distributes milk or cream which is produced by said producer except at the price fixed by Class III milk.

8. The contracting distributors agree that they will purchase all the milk (provided it meets with all health requirements provided for or referred to in this agreement) produced by all producers within the Birmingham Production Area who have established bases as described hereafter in Article I of Exhibit "B" on file with the Alabama Dairy League, Inc.

EXHIBIT "B"

MARKETING PLAN

Article I

As used in this exhibit the term "base" means a quantity of milk which represents the quota of milk production of any producer, farm or herd as the case may be, which, when marketed daily will tend to establish a balance between the production of milk in the Birmingham Production Area and the consumptive demand for fluid milk.

A. Production Control

1. The contracting distributor shall not purchase milk for distribution as fluid milk which is not produced within the Birmingham Production Area, provided, however, that if the Milk Board shall at any time declare that the consumptive demand for Class I and Class II milk in the Birmingham Sales Area during any period exceeds the available supply of milk produced within the Birmingham Production Area for distribution as fluid milk, the contracting distributors may purchase milk for distribution as fluid milk from without the Birmingham Production Area during such period.

2. Not to exceed five cents per hundredweight shall be deducted from the proceeds of the sale of fluid milk purchased from the producers of the Production Area and sold by the distributors in the Sales Area and shall be paid to the Milk Board. Of such stated amount per hundredweight of such fluid milk, the producers shall pay not to exceed 2 1/2 cents and the distributors shall pay not to exceed 2 1/2 cents. Such deductions from producers shall be considered part payment for milk.

3. Funds collected by the Milk Board and not expended by the Board to meet the expenditures necessitated by the performance of its duties as set forth in Part IV of the Agreement shall be repaid to producers at such times as the Milk Board may direct in proportion to their deliveries of fluid milk sold as Class I fluid milk and to the distributors in proportion to their sales of Class I fluid milk.

4. As promptly as possible after its organization, the Milk Board shall fix bases for all producers as follows:

(a) The base of a producer who distributes only milk produced by himself shall be the average daily quantity of milk distributed by him as fluid milk during the two full calendar months next preceding the effective date of the Agreement.

(b) The base of a producer who is a member of the Alabama Dairy League, Inc., shall be that recorded in the files of the Alabama Dairy League, Inc.

(c) The bases of producers not fixed pursuant to sections (a) and (b) of this paragraph shall be fixed by the Milk Board. Bases so fixed shall be equitable with reference to bases established by the Alabama Dairy League, Inc.

(d) All bases fixed pursuant to this paragraph shall remain in effect until February 1, 1934.

5. (a) Before January 15, 1934, the Milk Board shall fix bases for all producers to go into effect on such date for one year. Before each January 15th thereafter the Milk Board shall fix bases for all producers to go into effect on such date for one year. All bases fixed pursuant to this paragraph shall be fixed as follows: the base of each producer shall be that percentage of the average daily amount of milk marketed by him for distribution as fluid milk during the months of October, November and December, 1933, which the total average daily sales of fluid milk during such period is of the total average daily amount of milk marketed by all producers for distribution as fluid milk during such period.

(b) The base of any producer which has been fixed pursuant to this exhibit shall not be decreased as the result of any adjustment made pursuant to section (a) of this paragraph if, during the period immediately preceding such adjustment, his deliveries have not varied more than fifteen (15%) percent of his base.

6. (a) The contracting distributors shall not purchase milk from any person who, on the effective date of the Agreement, is not marketing milk for distribution as fluid milk, unless such person shall have obtained a certificate of necessity from the Milk Board, stating that marketing conditions warrant the issuance thereof, by application to the Milk Board upon forms furnished by the Milk Board. In the event that such application is denied, there shall be a right of appeal to the Secretary in a manner to be determined by the Secretary.

(b) During the three months following the issuance of a certificate of necessity to any such person, his base shall not exceed 50% of the milk marketed by him for distribution as fluid milk during such period. Thereafter, and until the next succeeding date, upon which new bases for all producers go into effect, pursuant to paragraph three (3) of this article, his base shall not exceed 60% of the average daily amount of milk marketed by him for distribution as fluid milk during such period. All bases fixed pursuant to this section shall be fixed by the Milk Board.

7. (a) The contracting distributors shall purchase all the milk (provided it meets all the health requirements provided for or referred to in the Agreement) tendered by all producers who have bases.

(b) To the extent necessary to effectuate the provision set forth in section (a) of this paragraph, the Milk Board may shift any producer from one distributor to another.

8. Any producer with a base who rents a farm and transfers his herd to such farm may retain his base.

9. Any producer with a base who rents all or part of his farm on shares, shall retain such base to the exclusion of his tenant. If a herd is owned jointly, whether in a landlord-tenant relationship or otherwise, the base of such herd shall be divided by the joint owners in proportion to their interest. The bases of joint owners may, however, be combined as a single base.

10. Any producer who sells his entire herd to one purchaser at one time may transfer his base to the purchaser, provided that the entire herd is maintained for six months consecutively after such sale and transfer, either on the farm on which such herd shall have been located or upon the first farm to which such herd may be moved by such purchaser. Where the stated conditions are not strictly complied with or where the purchaser fails to comply with the provisions of paragraph 9 of this article, the base of such herd shall be lost.

11. Any producer who moves his herd may retain his base only if thereafter milk is produced by him on a farm within the Birmingham Production Area, or from which milk has been marketed for distribution as fluid milk within one year preceding.

12. Where a herd is dispersed for any reason, without transfer of the base of such herd, such base shall be lost unless the herd is replaced within ninety days.

13. Any producer who voluntarily ceases to market milk for distribution as fluid milk for a period of more than three consecutive months, shall lose his base.

14. The contracting distributors shall not purchase milk from any producer who has lost or transferred his base, unless such producer obtains a certificate of necessity and establishes a base pursuant to the provisions of paragraph 4 of this article.

15. Any producer may combine all bases to which he may be entitled.

16. The base of any producer who markets an amount of milk for distribution as fluid milk less than fifteen percent of his base during any three consecutive months shall thereafter be fixed by the Milk Board in accordance with the amounts so marketed by him during such period.

17. No producer not regularly engaged in the distribution of milk shall market for distribution as fluid milk, either directly or indirectly, or distribute as fluid milk, the amount of milk produced by him in excess of his base except through the distributor who purchases his base; the Milk Board shall serve written notice upon any producer violating this provision to cease such violation. In the event that such violation is not discontinued within five days after the date on which such notice is mailed, the Milk Board shall, after due notice and opportunity for hearing, cancel the base of such producer, who may, however, appeal to the Secretary.

18. Any producer or distributor may, during the usual hours of business, examine the records of the Milk Board with respect to bases.

Article II

B. Method of Payment

1. As used in this article the term "delivery period" means -- each calendar month.

2. The Milk Board shall employ a competent and qualified accountant (hereinafter called "the auditor") who shall, subject to the supervision of the Milk Board, perform such duties as are set forth in this article. All information obtained by the auditor in the course of his duties shall not be disclosed by him, except as necessary in the performance of his duties and except to the Secretary upon request.

3. The plan set forth in this article shall become effective during the first full delivery period following the effective date of the Agreement. In the event that the delivery period is a monthly period, said plan shall, however, become effective on the first or the sixteenth of the month, whichever next follows the effective date of the Agreement.

4. Within five days after the close of each delivery period, each distributor shall report to the auditor on forms furnished by the Milk Board, the following information with respect to his operations during such delivery period:

- (a) The quantity and the weighted average butterfat test of all milk sold or used as Class I milk.
- (b) The quantity and the weighted average butterfat test of all milk sold or used as Class II milk.
- (c) The quantity and the weighted average butterfat test of all milk sold or used as Class III milk.
- (d) The quantity and the weighted average butterfat test of all milk delivered by or on behalf of each producer, together with the name of each such producer.
- (e) The quantity and the weighted average butterfat test of all milk sold or used which was produced by such distributor.
- (f) The quantity and the weighted average butterfat test of all milk delivered by or on behalf of all producers.

5. With respect to each delivery period the auditor shall:

- (a) Compute the total value, in accordance with the prices set forth in Exhibit "A" of the milk sold or used by each distributor in each class.

(b) Compute the percentage of the total bases of all producers which was sold or used by all distributors as Class I milk.

(c) Compute the percentage of the total bases of all producers which was sold or used by all distributors as Class II milk.

6. Within ten (10) days after the close of each delivery period, the auditor shall notify all distributors of the percentages of bases for which all producers are to be paid at Class I and Class II prices.

7. Each distributor shall pay each producer who delivered milk to him as follows:

(a) At the Class I price for such an amount of the milk delivered by such producer as is equal to the amount derived by applying to the base of such producer the percentage computed pursuant to Section (b) of paragraph 5 of this article.

(b) At the Class II price for such an amount of the milk delivered by such producer in excess of the amount paid for pursuant to Section (a) of this paragraph as is equal to the amount derived by applying to the base of such producer the percentage computed pursuant to Section (c) of paragraph 5 of this article.

(c) At the Class III price for all milk delivered by such producer and not paid for at Class I and Class II prices.

8. (a) The Milk Board shall maintain an adjustment account for each distributor, which shall be debited for the value of the milk purchased by such distributor during each delivery period computed pursuant to section (a) of paragraph 5 of this article and which shall be credited for the total amounts paid to producers pursuant to paragraph 7 of this article (including the deductions as set forth in paragraphs 1 and 6 of Part IV of the agreement) for milk sold or used by such distributor during such delivery period. Balances on adjustment accounts shall be settled with the Milk Board or by the Milk Board, as the case may be, simultaneously with making payment to producers for milk purchased.

(b) The amount of the excess of total debits over total credits which shall have been paid to the auditor with respect to each delivery period shall be paid over to all producers who delivered milk for distributions as fluid milk during such delivery period, in any of the following ways:

(1) By an equitable adjustment of the amounts of milk to be paid for at Class I prices with respect to the following delivery period; or

(2) by additional payments for milk to be paid for at Class I prices with respect to the following delivery period.

9. All payments by distributors to producers for milk delivered during any delivery period within ten days after the close of such delivery period.

10. Distributors shall keep adequate books and records disclosing all of the facts and information required by the auditor to determine purchases, sales, movements out of plants and uses of all milk in its various classifications. For such purpose, the books and records of each distributor shall be available to the auditor. Any errors in computation of payments, or any discrepancies in reports of distributors made pursuant to paragraph 4 of this article shall be adjusted when settlements are made with respect to the following delivery period.

EXHIBIT "C"

PRICE SCHEDULE FOR WHOLESALE AND RETAIL SALES

1. Sales of the following articles in the Sales Area shall be at prices hereinafter set forth. Sales of the following articles in bottles or containers shall be made only in bottles or containers of the size specified, and where a grade and/or percentage of butterfat is specified, only at the specified grade and/or percentage.

2. It shall not be deemed a violation of this Agreement to add to the selling price of any article or articles hereinafter listed in this Exhibit any specified sales or occupational taxes imposed by the laws of any State, if permitted by such laws, but any such additions shall be uniform as to all contracting distributors and/or sellers of milk at retail.

3. The contracting distributor may sell to any public unemployment relief agency, any welfare charity or government agency at less than the following prices, upon competitive bids or otherwise.

4. The prices listed in the retail price schedule shall apply as follows:

(a) Home delivery (column A) means retail sales by distributors, stores or markets where milk is delivered to the home of the purchaser.

(b) Store, (column B) means retail sales from stores or markets where purchaser removes the milk from place where bought.

5. Wholesale, delivered, (column C) prices shall apply in connection with sales as follows:

(a) To stores, markets, and other places where milk is resold in its original container for consumption other than on the premises.

(b) To restaurants, drug stores, confectioneries, hotels and clubs where said articles are used and/or consumed on the premises.

6. Peddler sales f.o.b. plant (column D) means sales to small dealers not owning and operating plants for handling fluid milk who resell the milk in its original containers.

7. Where milk is sold by stores or at wholesale, in glass bottles, a deposit charge of 5 cents per bottle shall be made, returnable upon return of the bottle.

3. WHOLESALE AND RETAIL PRICE SCHEDULE

	RETAIL		WHOLESALE	
	Home Delivery	Store	Delivered	Peddler Sales f.o.b. Plant
	(A)	(B)	(C)	(D)
Milk 4½% fat	∅	∅	∅	∅
Gallons (over ____ gals.)				
Gallons (under ____ gals.)				
Quarts	14	13	11	
Pints	8	7	6	
10 oz. bottles				
Half pints	6	5	3 1/2	
Milk ____ % fat				
Special Raw (over ____ gals.)				
Gallons (under ____ gals.)				
Quarts	15		14	
Pints	9		8	
10 oz. bottles				
Half pints				
Special or Guaranteed				
Milk "Vitamin D" ____ % fat (over ____ gals.)				
Gallons (under ____ gals.)				
Quarts	15			
Pints	8			
10 oz. bottles				
Half pints				
Certified Milk ____ % fat				
Quarts	20		20	
Pints	10		10	
10 oz. bottles				
Half pints				

WHOLESALE AND RETAIL PRICE SCHEDULE
(continued)

	RETAIL		WHOLESALE	
	Home Delivery	Store	Delivered	Peddler Sales f.o.b. Plant
	(A)	(B)	(C)	(D)
Buttermilk (Churned)	¢	¢	¢	¢
Gallons	(over _____ gals. { (under _____ gals.			
Quarts	8	7	6	
Pints	6	6	4	
Half pints	5	5	2 1/2	
Buttermilk (Cultured under 1% fat)				
Gallons	(over _____ gals. { (under _____ gals.			
Quarts	8	7	6	
Pints	6	5	4	
Half pints	5	5	2 1/2	
Buttermilk (Cultured Whole Milk)				
Gallons	(over _____ gals. { (under _____ gals.			
Quarts				
Pints				
Half pints				
Skim milk				
Gallons	(over _____ gals. { (under _____ gals.			
Quarts				
Chocolate Milk 4% fat				
Quarts	14	13	11	
Pints	8	7	6	
10 oz. bottles	—			
Half pints	6	5	3 1/2	

WHOLESALE AND RETAIL PRICE SCHEDULE
(continued)

		RETAIL		WHOLESALE	
		Home Delivery	Store	Delivered	Peddler Sales f.o.b. Plant
(C)	(D)	(A)	(B)	(C)	(D)
Cream (Table or coffee)		∅	∅	∅	∅
18-20% fat					
Gallons	(over _____ gals.)				
	(under _____ gals.)				
Quarts		50	45	40	35
Pints		25	25	20	18
Half Pints		15	15	11	10
Gills					
Cream (Medium Fat) 30-32% fat					
Gallons	(over _____ gals.)				
	(under _____ gals.)				
Quarts		70	65	60	55
Pints		35	35	30	28
Half Pints		20	20	16	15
Gills					
Cream (Heavy) _____ % fat					
Gallons	(over _____ gals.)				
	(under _____ gals.)				
Quarts					
Pints					
Half Pints					
Gills					
Cream (Sour) _____ % fat					
Gallons	(over _____ gals.)				
	(under _____ gals.)				
Quarts		55	50		
Pints		28	25		
Half Pints		16	15		
Gills					

WHOLESALE AND RETAIL PRICE SCHEDULE
(continued)

	R E T A I L		W H O L E S A L E	
	Home Delivery	Store	Delivery	Peddler Sales f.o.b. Plant
	(A)	(B)	(C)	(D)
Cottage Cheese (dry)				
Bulk (per pound)	φ	φ	φ	φ
1-lb. Packages				
12-oz. "				
10-oz. "				
Cottage Cheese (Creamed)				
Bulk (per pound)				
1-lb. packages	20	20	15	
12-oz. "	18	18	12	
10-oz. "	15	15	10	
4-oz. "	5	5	5	

EXHIBIT "D"

RULES OF FAIR PRACTICE

The following practices are considered unfair and shall not be engaged in by the contracting distributors or by their officers, employees, or agents:

- (1) Any method or device whereby fluid milk is sold or offered for sale at a price less than that stated in the Agreement, whether by discount, rebate, free service, merchandise, credit for bulk fluid milk returned, loans or credit outside the usual course of business or other valuable consideration or combined price for such milk together with another commodity sold or offered for sale whether separately or otherwise, or whereby a subsidy is given for either business or information or assistance in procuring business.

UNITED STATES DEPARTMENT OF AGRICULTURE
AGRICULTURAL ADJUSTMENT ADMINISTRATION

PROPOSED MARKETING AGREEMENT - BIRMINGHAM ALABAMA MILK
SUBMITTED BY: ALABAMA DAIRY LEAGUE, INC.

I, Ammon McClellan, Chief Hearing Clerk, Department of Agriculture, do hereby certify that this is a true and correct copy of the Marketing Agreement for Milk, Birmingham, Alabama Area delivered to this Office by Dr. Clyde L. King, Chief, Dairy Section.

Ammon McClellan
Chief Hearing Clerk
5428 South Building,
Department of Agriculture.